

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF) CASE NO. IPC-E-03-13
IDAHO POWER COMPANY FOR AUTHORITY)
TO INCREASE ITS INTERIM AND BASE) NOTICE OF PUBLIC
RATES AND CHARGES FOR ELECTRIC) WORKSHOPS
SERVICE.)
_____) ORDER NO. 29403

On October 16, 2003, Idaho Power Company filed an Application with the Commission for authority to increase the Company's general rates an average of 17.7%. If approved, Company revenues would increase by nearly \$86 million annually. In the event the Commission suspends Idaho Power's proposed rates for further proceedings, the Company's Application also included a request for \$20 million in interim rate relief. Idaho Power provides electric service to approximately 405,000 residential, commercial, industrial, and irrigation customers in southern Idaho. In this Order, the Commission denies Idaho Power's interim rate request and establishes informal public workshops so that the Commission Staff can dispense information about the case.

THE INTERIM RATE REQUEST

A. Background

Idaho Power requested the Commission authorize a uniform 4.16% increase on all existing tariffs pending a final determination of Idaho Power's rates and charges. The interim request was contingent upon the Commission suspending the effective date of the Company-proposed rates beyond November 15. See *Idaho Code* § 61-622. The interim rate increase requested is part of, and not in addition to, the general rate increase proposed by the Company.

Based on a 2003 test year and holding all other financial and accounting items constant (including the currently-allowed 11% return on equity), Idaho Power's interim revenue requirement of \$20,124,165 was based on four components:

1. The construction and operation of the Danskin Power Plant (\$7,727,782).
2. The costs associated with relicensing the Company's Middle-Snake (Upper Salmon, Lower Salmon, and Bliss), Shoshone, and C.J. Strike hydro facilities (\$1,573,440).

3. The change in depreciation expenses approved in Order No. 29363, Case No. IPC-E-03-5 (\$3,816,971).¹
4. The increase in Idaho's share of net power supply costs from 85.5% in 1993 to 94.1% in 2003 due to reallocation between wholesale and retail jurisdictions (\$7,024,125).

Idaho Power maintained that requiring the Company to absorb these financial costs during the suspension period would jeopardize the Company's financial viability.

On October 28, 2003, the Commission issued Order No. 29369 suspending permanent and interim rates for a period of 30 days plus five months from November 15, 2003, or until such time as the Commission enters an Order accepting, rejecting or modifying the request in this matter. *Idaho Code* §§ 61-622 and 61-623. To address the interim rate request in a timely manner, the Commission scheduled an oral argument on November 13, 2003.

B. Oral and Written Arguments

In addition to suspending the effective date, the Commission's Order No. 29369 requested briefs addressing two issues: what legal standards should the Commission use in considering the request for interim rate relief, and arguments supporting and opposing the interim rate requested. Briefs were filed by Idaho Power, the Commission Staff, and the Industrial Customers of Idaho Power (ICIP). Although Micron Technology did not submit a brief, it identified issues during oral argument not addressed by the legal briefs that are discussed below. With the exception of the Irrigation Pumpers that took no position on the interim rate request, the parties generally opposed the Company's interim rate request.

Commission Staff

Staff argued that the decision whether to approve a temporary rate increase falls within the Commission's discretion. Staff's Brief at 2. Citing language from Order No. 25683 issued in Idaho Power's 1994 general rate case, Staff noted that the standard for approving an interim rate request is high, given the extraordinary relief entailed in such a request. *Id.*

According to Staff, the Commission considered a similar request by the Company in its last general rate case (Case No. IPC-E-94-5) and reiterated the exceptional nature of interim rate relief in Order No. 25683. *Id.* at 6. In that Order, the Commission stated that it will only consider

¹ The new depreciation rates contained in Order No. 29363 are effective December 1, 2003.

approving interim rates when Idaho Power is faced with a financial emergency because the Company is protected by its ability to control the filing of a rate case, the annual relief the Company obtains through the PCA, and the permanent rates the Commission approves after hearing all the evidence in the case. *Id.* Staff argued that it is incumbent on the Company to show a dire need exists – a financial emergency – before the Commission will consider a temporary rate increase. *Id.* Because Idaho Power has not alleged a financial emergency exists, Staff urged the Commission to deny the Company’s request for interim rates.

Industrial Customers of Idaho Power

According to ICIP’s brief, Idaho Power has not met any of the various legal standards for granting interim rate relief. Citing the Idaho Code, Idaho and California case law, and prior Commission Orders, the ICIP argued that the legal standard for interim rate relief requires: 1) economic hardship caused by an emergency situation; 2) certainty regarding the reasonableness of the rate increase; 3) new plant must be a substantial part of the utility’s overall investment; 4) a considerable period of time will lapse before a final prudence determination can be made; and 5) hydro relicensing costs are not ripe for inclusion in rates. ICIP Brief at 4. ICIP explained that Idaho Power’s request failed to meet these criteria.

Furthermore, the ICIP opposed the Company’s request to create a new standard for such relief based on “good management performance.” *Id.* at 1. The ICIP asserted that the Company’s efforts, although appreciated, are required of all businesses to remain competitive. Moreover, it would be unwise to expand the legal standards for granting interim rate relief by adding a vague “good management performance” standard to the list. *Id.* at 8.

Micron Technology

Micron Technology disagreed with Idaho Power’s suggestion that there is no significant dispute regarding the four revenue components that comprise the interim rate request. Micron Technology expects that the jurisdictional allocation component of the interim rate will be contested. If changed, the allocation would affect the other three revenue components. Oral Argument Tr. at 10. Second, unlike the 1982 rate case cited by Idaho Power, Micron reasoned that the cost of capital would be reduced given that present interest rates are near 50-year lows. *Id.* at 11. Noting that if the proposed interim rate increase was approved, Micron stated it would unjustly be forced to pay the 4.16% interim rate increase that would exceed the 2.87% permanent rate increase justified by the

Company's own cost of service study. Finally, Micron Technology pointed out that if the interim rates were approved, irrigation pumpers would not shoulder any of the interim rates because the irrigation season was more than five months away. This inequity would be compounded because irrigation rates are below their cost of service. *Id.* at 12.

Idaho Power Company

Idaho Power argued in its Legal Memorandum that Idaho law gives the Commission broad discretion to authorize interim rates, and interim rates can be changed when the Commission makes its final determination on permanent rates. Company Brief at 1-2. Second, the Company noted that the standard for granting interim rates is no more stringent than for permanent rates and that the just, reasonable and sufficient standard applies equally. Third, the Commission can authorize interim rates based on adequate findings made on the Company's prima facie case without more formal proceedings. Moreover, the Commission can subsequently adjust interim rates following the completion of the full rate review process. *Id.* at 6-7.

Idaho Power compared its present interim rate request to one granted in 1982 when the Commission concluded that the Company had demonstrated that the amount granted in interim revenues for Valmy-related expenses would be less than the amount the Company would ultimately receive when the final Order was issued. Order No. 17070. The Company believes a similar situation exists today in that the four interim revenue components are all known and measurable, and do not require extensive review to verify. Without these revenues, Idaho Power argued that it will continue to earn less than it is legally entitled to earn and shareowner property will be confiscated. *Id.* at 8.

In short, Idaho Power advocated approval of its requested interim rates if the Commission finds that the amount of interim rate relief will not exceed the amount of permanent rate relief ultimately allowed and the public interest would support an interim rate Order. *Id.* at 2. According to the Company, interim rates would serve the public interest by providing additional cash flow for system improvements and lower financing costs. *Id.* at 10.

Idaho Power does not believe Idaho Law requires an economic hardship or emergency situation to exist as a legal prerequisite for granting interim rate relief. Oral Argument Tr. at 14. Even so, the Company noted that its economic hardship is evidenced by its Board of Directors' recent decision to reduce the dividend on common equity by 35% to fund additional infrastructure

improvement to keep pace with customer growth. *Id.* at 15. According to Idaho Power, this dividend reduction is the Company's effort to share this burden with ratepayers and will cost shareholders approximately \$20 million annually – an amount nearly identical to the interim rate request. *Id.* at 19.

The Company found unrealistic the argument that it could exercise any real control over the timing of its rate case given the 30% increase in PCA rates in recent years. *Id.* at 21. Idaho Power also expressed concern that the investment community could view denial of interim rates as an indication that the Commission will not be supportive of the permanent rate increase and put additional pressure on the Company's investment ratings. *Id.* at 24-25.

C. Commission Discussion and Findings

Although not in dispute in this case, the Idaho Supreme Court affirmed that the Commission has jurisdictional authority to implement interim rates. *Grindstone Butte Mut. Canal Co. v. Idaho Power Co.*, 98 Idaho 860, 864, 574 P.2d 902, 906 (1978). It is clear that the Commission has broad discretion when considering Idaho Power's interim rate request. "Traditionally, interim rate relief is an extraordinary remedy to be granted only in an emergency or where there is danger that the utility will not be able to render adequate service if relief is withheld." Order No. 25683 at 3. To that end, past Commission decisions have allowed interim relief if: 1) requested revenues match increased costs; 2) such increased costs are known and measurable; and 3) the utility's earnings are considerably below a reasonable rate of return. Order No. 25683 citing Order No. 21209.

In denying Idaho Power's 1994 interim request, the Commission determined that the Company did not allege a financial emergency or some other immediate need. Moreover, the Commission found that denial of the interim request was appropriate because: 1) the timing of the rate case filing was in the Company's control, 2) implementation of the annual PCA allows recovery of power and fuel costs, thereby insulating the Company from weather-related risks; and 3) approval of previous investments and costs do not guarantee that permanent rates will increase. Order No. 25683 at 3-4.

When granting or denying past interim rate relief, the Commission has relied on factors such as these to determine the appropriateness of extraordinary relief on a case-by-case basis. After reviewing the record before us in this case, we find that Idaho Power is not experiencing a financial

emergency sufficient to grant this extraordinary remedy. Neither has the Company sufficiently demonstrated that its current earnings are “considerably below a reasonable rate of return.” The Company’s credit ratings, liquidity, and earnings per share ending June 2003 (within the test year) are in line with most prior years. Oral Argument Tr. at 22-25. The parties also contest the actual amounts associated with the interim rate revenue components. For example, Micron noted that the jurisdictional allocation may be subject to dispute. *Id.* at 10. Although known and measurable, the Danskin plant and hydro facility relicensing costs are under review for the first time in this case and their recovery may be contested once thoroughly examined by the parties. Finally, the inequitable burden of a uniform percent increase over customer classes actually using electric service over the next six months cannot be fully cured by the fact we can set different rates with the final Order. We suspect that even the Company would agree that there is a time value to money for everyone. Given these uncertainties, an interim rate increase is not warranted at this time.

While the Company is correct to be concerned by the financial community’s view, as are we, the Company’s current financial position is sufficiently strong that those concerns do not override other considerations. This Commission has a very strong record of paying attention to and taking action to preserve the financial health of the utilities we regulate. A utility’s financial health is an important part of the public interest standard. That is unchanged with this interim rate decision. We would also remind the financial community that we are the same Commission that passed on the purchased power costs incurred in the energy crisis of 2000-2001. Thus, the investment community should not draw any inferences whatsoever from our decision to deny this interim rate request. We have not prejudged this case and neither should they. This case will be proceed expeditiously and fairly. The final decision will be based on the record made after a full presentation on all the issues to be considered.

NOTICE OF PUBLIC WORKSHOPS

YOU ARE HEREBY NOTIFIED that the Commission has scheduled four workshops regarding Idaho Power’s Application. The workshops will offer the public an opportunity to meet informally with Commission Staff to ask questions and receive information about the Company’s Application and proposed rate increase. These informal workshops are not to be confused with public hearings. The Commission will hold public hearings in April 2004 to receive sworn testimony from customers and interested persons; oral testimony will not be taken during the

informal workshops in January. Customers, local government leaders, and other interested persons are encouraged to attend both the informal workshops and the formal public hearings.

YOU ARE FURTHER NOTIFIED that informal workshops will be held in:

- **Boise on Tuesday, January 6, 2004** at the Idaho Public Utilities Commission Hearing Room, located at 472 West Washington Street. The public workshop will begin at 7:00 p.m.
- **Caldwell on Wednesday, January 7, 2004** at the Canyon County Courthouse, located at 1115 Albany Street. The public workshop will begin at 7:00 p.m.
- **Pocatello on Wednesday, January 14, 2004** at City Hall, located at 911 N. 7th. The public workshop will begin at 7:00 p.m.
- **Twin Falls on Thursday, January 15, 2004** at the City Council Chambers, located at 305 3rd Ave East. The public workshop will begin at 7:00 p.m.

YOU ARE FURTHER NOTIFIED that all workshops and public hearings in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act. In order to participate in the public workshops, persons needing the help of a sign language interpreter or other assistance may ask the Commission to provide a sign language interpreter or other assistance as required under the Americans with Disabilities Act. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

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ORDER

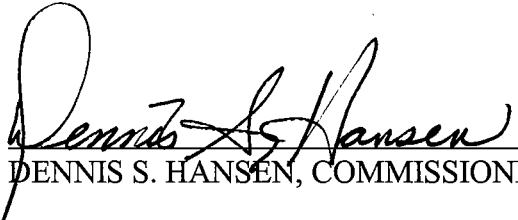
IT IS HEREBY ORDERED that Idaho Power Company's request for interim rate relief is denied.

IT IS FURTHER ORDERED that the Commission adopts the foregoing scheduling of informal Staff workshops.

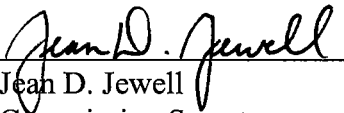
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 22nd
day of December 2003.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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